Nightmute Traditional Council
P.O. Box 90021
Nightmute, AK 99690
ph. (907)647-6215 fax: (907) 647-6112

CONSTITUTION OF THE NEGTE'MIUTE TRIBE

Nightmute, Alaska
November 25, 2000

PREAMBLE

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PREAMBLE

We, the Negte'miut Tribe, assert our freedom as a sovereign people in a historical relationship with the United State of America as expressed through this Constitution. In this assertion, we adopt and institute this Constitution to affirm our faith in fundamental Native rights and traditions, and, to promote our social, cultural, educational, economical and political aspirations under the inherent sovereign authority of our tribe. This Constitution was adopted by the TRIBAL MEMBERS, by a vote of 34 at the annual election on October, 19 2002, and shall supersede the previous and revised Nightmute Constitutions.

ARTICLE 1- NAME

The name of our Tribe shall be the Negte'miut Tribe. The name of our governing council shall be the Negte'miut Tribal Council. The other names that have been used in the past for our tribe include the Native Village of Nightmute and the Village of Nightmute. The other names for our Council include Nightmute Village Council and the Nightmute Traditional Council. These former names shall be replaced with the adoption of this Constitution.

ARTICLE 2- TERRITORY

The territorial jurisdictional of the Negte'miut Tribe shall extend and include to all lands and waters constituting the Indian country of the Negte'miut Tribe as defined by federal and tribal law. To the extent consistent with federal law, such lands and water shall include, but not limited to, all lands, waters customarily and traditionally used by the people of Negte'miut, including lands withdrawn for selection by Chinuruk Corporation for the Native people of Negte'miut under the Alaska Native Claims Settlement Act (P.L. 92.60), those Calista Corporation land which are adjacent to Chinuruk Corporation lands or traditionally used by the people of Negte'miut, all lands within the Negte'miut village site, and all fee lands and allotments within the traditional lands of Negte'miut, regardless of the issuance of any patented or unrestricted fee title to any such lands.

ARTICLE 3- MEMBERSHIP

Section 1. BASE MEMBERSHIP ROLL. The membership of the Negte'miut Tribe shall be consist of all Alaska Natives whose name appear on the base membership roll adopted by the Negte'miut Tribal Council.

Section 2. QUALIFICATION FOR MEMBERSHIP. Lineal descendants of members listed on the base roll shall be automatically eligible for membership in the Negte'miut Tribe, subject to the provision of this Constitution and to any membership and enrollment ordinances enacted pursuant to this Constitution.

Section 3. ADOPTION OF MEMBERSHIP. The Tribal Council shall have the option to adopt any Alaska Native person, who is not a descendent of members listed in the base roll, according to the provisions of tribal membership and enrollment ordinances.

Section 4. MEMBERSHIP ORDINANCES. The Council shall have the power to enact ordinances and resolutions, not inconsistent with this Constitution, prescribing rules and regulations governing membership, including application and such appeal procedures,loss of membership, dual enrollments, and adoption of members.

ARTICLE 4 - GOVERNING BODY

Section 1. NAME. The governing body of the Negte'miut Tribe shall be the Negte'miut Tribal Council, also referred to as the Council or Tribal Council in this Constitution. The Council shall represent the Tribe and shall exercise the powers invested by the Tribe as delegated by this Constitution.

Section 2. COMPOSITION. The Council shall consist of seven members who shall be elected by a majority vote of the qualified voters of the Tribe. All seven council members shall be entitled to vote during meetings of the council, except on matters involving conflict of interest. The seat that each member files shall be assigned a letter and a clear record of term length for each seat shall be kept. The seats shall be identified by the letters A through G.

Section 3. QUORUM. Four (4) Council members shall constitute a quorum for the transaction of business at any meeting of the Tribal Council.

Section 4. OFFICERS. The officers of the Council shall include a Traditional Chief ,President, Vice President Secretary/Treasurer, and four (3) members. The seat(s) of officers will be filled according to their term years, as described in section 6 of this article, on elections held annually.

Section 5. QUALIFICATIONS FOR TRIBAL COUNCIL. Members of the Negte'miut Tribe, eighteen (18) years of age or older and residing in Nightmute for the last One (1) year prior to an election, shall be qualified to hold a seat on the Nightmute Tribal Council.

Section 6. TERM OF OFFICE. Seats shall have assigned letters. Records shall be kept in the tribal office showing who is filling which seat. All terms of office shall be staggered years. All the council members elected will determine the years by using a form of lottery entry. The years that are determined will be two (2) members three (3) years, two (2) members two (2) years, three (3) members for one (1) year. All council members shall hold their seats until successors are duly elected and seated.

Section 7. CONFLICT OF INTEREST. No Council shall vote on any matter including but not limited to employment contracts, project funding, project allocations and appointments to tribal committees, in which he or she has a personal interest. A personal interest includes involvement of his or her spouse, children, siblings, parents and grandparents. Council members present in such cases shall reveal such conflict of interest prior to any vote.

ARTICLE 5- DUTIES OF OFFICERS

Section 1. ASSUMING DUTIES. Newly elected officers shall assume their respective office and duties immediately upon being elected.

Section 2. Traditional Chief. The chief shall preside all community member meeting and special meetings and shall be seated at the head of all community functions. He/she shall attend, when available and able, any matter that will be a risk to, perilous to, and anything that will greatly damage the social and economic well being of the members of Negte'miut and its government. The chief shall also attend in any matter that could harm and damage the operation of the Tribal Government.

Section 3. PRESIDENT. The President shall chair over all meetings of the Tribe and shall attend to general supervision of the Tribal Council issues. The President shall sign, with either the Vice President, Secretary/ Treasurer, all contracts, leases, or other such documents that are approved by a quorum of the Council. He or she shall vote in all cases except on the matter of his or her removal or when there is a conflict of interest. When the Council is not in session, he or she shall be the official representative of the Tribe.

Section 4. VICE PRESIDENT. The Vice President shall assist the President when called upon to do so. In absence of the President, he or she shall have the duties and responsibilities of the President, except signatory powers on contracts, leases or other such documents

Section 5. SECRETARY/TREASURER. The Secretary/ Treasurer shall take notes or delegate the taking of the minutes at all meetings. In the absence of the Chairman and Vice Chairman, the Secretary/Treasurer shall chair over Council meetings. The Secretary/Treasurer shall carry out the Financial directives of the Council, receive all tribal monies and keep accurate account of the receipts and disbursements, except when duties are otherwise delegated by the Council. The Secretary/Treasurer shall give a financial report as requested by the Council. Upon vacating his or her office, the Secretary/ Treasurer shall turn over all the records and papers in his or her possession to his or her successor or to the Council.

Section 6. MEMBERS. The four (3) Members shall attend all meetings, take part in decision making and input on every decision if they have anything they want to share, and they shall practice all of the offices in Article IX, Section(s) 1, 2, and 3 in case of removal, vacancy, and forfeiture of one of the Tribal Council.

ARTICLE 6- MEETINGS

Section 1. REGULAR MEETINGS OF THE TRIBAL COUNCIL. Regular meetings of the Council shall be held during the first week and last week of each month. At the end of each meeting, the Council shall designate the time and place and date for the next regular meeting. Notice of the meeting shall be posted at least three (3) days prior to meetings in three (3) public places in Negte'miut. All regular meetings shall be open to the tribal members.

Section 2. SPECIAL MEETINGS. A quorum of the Council or the Traditional Chief and President may call a special meeting upon giving at least a twenty-four (24) hour notice to tribal members, posted in at least three (3) public places in Nightmute.

Section 3. EMERGENCY MEETINGS. The Council may meet for an emergency meeting without notice when emergency situations warrant such a meeting. Decisions made at emergency meetings shall only be effective until a regular meeting of the Council is held.

Section 4. EXECUTIVE SESSION. The Tribal Council may move to meet in a closed executive session during regular, special or emergency meetings of the Tribal Council when the subject matter concerns child welfare, personnel, litigation, removal of Council members, tribal enrollment confidential records, and other matters made confidential by tribal ordinance.

Section 5. TRIBAL MEMBERSHIP MEETINGS. An annual meeting of the Nightmute Tribal membership shall be held each year in October. The date, time and place shall be determined by the Council. The Council may also call tribal membership meetings provided that notice is posted in at least three (3)Public places,three weeks in advance. A tribal membership may also be called by the tribal membership upon circulating a petition which at least fifty (50) resident, adult, tribal members have signed. Notice for meetings called by the tribal membership shall be posted in at least three (3) public places, three (3) weeks in advance. The minimum quorum number for holding tribal membership meetings shall be twenty-five (25) adult, resident, tribal members.

ARTICLE 7- REMOVAL, RECALL, FORFEITURE, VACANCIES

Section 1. REMOVAL. Any Tribal Council member found guilty by the Tribal Council of neglect of duty,gross misconduct in office, or any offense involving dishonesty may be removed from office by the Tribal Council. Five (5) Tribal Council members must vote in favor of the removal, or 3/4 votes. A Council member subject to removal shall first be given ten (10) days notice in writing of the charges against him or her and be given an opportunity to answer such charges before the Tribal Council. If the person subject to removal fails to appear before the Council, the Council may proceed with the vote as scheduled. No member of the Tribal Council shall preside over a meeting in which his or her removal is being considered. All questions of removal under this Section shall be resolved by the Tribal Council and the decision of the Tribal Council shall be final.

Section 2. RECALL. Any member of the Tribal Council may be recalled by the tribal voters through a petition and election process. A petition requesting such a recall, shall be signed by at least fifty (50) adult,resident tribal members and presented to the Tribal Council. Within thirty (30) days of receipt of such petition, the Council shall call an election under the guidelines of Article 8,Section 4 of this Constitution to consider the recall,the tribal membership may hold a tribal membership meeting to conduct such business.
Circulating a new petition to call such a meeting shall not be required, but notice shall be posted in three (3) public places, at least three (3) weeks prior to such a meeting. Voting by a minimum of twenty-five (25) resident, tribal voters is required to conduct a recall election. No official may be subjected to recall proceedings more than once in the course of his or her term.

Section 3. FORFEITURE. Any member of the Tribal Council who submits a written resignation, is convicted of a felony of corruption while in office, or is absent from three regular meetings within a six month period without being excused by the Council shall automatically forfeit his or her seat.

Section 4. VACANCIES. Any vacancy in the Tribal Council shall be filled by appointment by Tribal Council. A Tribal Council member appointed to fill a vacancy shall serve only until the next regular election in October. Persons elected to fill a vacancy shall only serve for the unexpired portion of the term for that seat.

ARTICLE 8- ELECTIONS

Section 1. VOTER CERTIFICATIONS. Any enrolled member of the Nightmute Tribe, eighteen (18)years of age or older, who is resident in Nightmute for at least one (1) year prior to an election, shall be qualified to vote.

Section 2. GENERAL GUIDELINES FOR ELECTIONS. All elections shall be conducted by secret ballot. Unless otherwise specified by this Constitution or by the tribal ordinance, the outcome of an election shall be determined by majority vote of the qualified voters casting their ballot during an election.

Section 3. TRIBAL COUNCIL ELECTIONS. The Tribal Council shall set a date every year for regular elections to be held in October in Nightmute, and shall give at least one (1) moth notice of such election, posted in at least three (3) public places in Nightmute. If the Tribal Council fails to hold Tribal Council elections, the tribal membership may hold a tribal membership meeting under the provisions of this Constitution to conduct Tribal Council Elections.

Section 4. SPECIAL ELECTIONS. The Council may,by resolution,call a special election upon giving at least two (2) weeks notice to the tribal members, posted in at least three (3) public places in Nightmute.

Section 5. ELECTION COMMITTEE. The Council shall appoint an election committee of three(3) adult tribal members prior to elections to supervise,administer, and conduct tribal elections. The election committee shall certify election results. In the event of election disputes, the determination of the election committee shall be final. In elections for seats on the Nightmute Tribal Council, no member of the selection committee shall at the same time be a member of the Council or a candidate for a position of the Council.

SECTION 6. ELECTION ORDINANCE. An election ordinance, consistent with this Constitution, shall be adopted by the Council following the effective date of this Constitution which shall set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution.

ARTICLE 9-POWERS OF THE NIGHTMUTE TRIBAL GOVERNMENT

Section 1. POWERS. The Tribal Council shall exercise the following powers by appropriate activity, motion, resolution or ordinance, subject to any limitations imposed by this Constitution or applicable laws of the United States.

a. To consult, negotiate, contract, or conclude agreements with the federal and state, local and tribal governments on activities which may affect the Nightmute Tribe.

b. To promote and protect the peace,health,education and general welfare of the members of tribe, and to administer charity and other such services as may contribute to the social and economic development of the Tribe and its members.

c. To levy and collect taxes, fees and assessments for tribal purposes.

d. To regulate the internal procedures of the tribal government.

e. To encourage, guard and foster traditional cultural practices of the Nightmute community, including arts, crafts, religion, language and customs of the community.

f. To prevent the sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets without the consent of the Nightmute Tribe.

g. To acquire property and accept gifts.

h. To administer tribal assets including funds and manage all economic affairs and enterprises of the Tribe.

i. To engage in tribal economic development enterprises for the benefit of tribal members.

j. To provide for the maintenance of law and order and the administration of justice, including the establishment of appropriate tribal courts and other judicial bodies.

k. To enact ordinances consistent with this Constitution for the conduct and administration of all tribal functions.

l. To pass ordinances governing future membership, loss of membership and the adoption of members.

m. To regulate inheritance among members whether by intestacy or otherwise.

n. To administer any funds within the control of the Tribe.

o. To regulate child custody and other domestic relations among tribal members.

p. To protect and preserve the wildlife and natural resources within the area under the jurisdiction of the Tribe or upon which its members rely for subsistence.

q. To regulate and control the use of natural resources within those areas under the jurisdiction of the Tribe.

r. To employ legal counsel, determine choice of counsel, and to set legal fees.

s. To join and/or charter housing authorities.

t. To protect members rights in personal property.

u. To designate area, exercise the power of a government's right to take private property for public use, and otherwise regulate all land use within those under the jurisdiction of the Tribe.

v. To enact ordinances, procedures and regulations necessary to give effect to any provisions of this Constitution and to exercise any powers not prohibited by federal law or reserved to the tribal membership.

Section 2. OMISSIONS. Any rights and powers vested in the Nightmute Tribe, but not expressly referred to in this Constitution, shall not be lost by reason of their neglect, but may be exercised by the Council, upon approval by submission of a proposed public measure or actual statute to a direct popular vote, to the tribal voters.

ARTICLE 10- POWERS RESERVED TO MEMBERSHIP

SECTION 1. TRIBAL LANDS. Any right and powers are specifically reserved to the qualified voters of the Nightmute Tribe acting through a property called election or tribal members meeting:

a. No lands or interests in lands owned by the Tribe may be sold, leased, to weigh down unduly, or disposed of without an affirmative vote of at least fifty(50) adult, resident tribal members.

b. Nothing in this Article shall prohibit the Tribal Council from establishing and administering a tribal land assignment program through a tribal ordinance.

ARTICLE 11- POPULAR PARTICIPATION IN GOVERNMENT

Section 1.INITIATIVE. The qualified voters of the Tribe shall have the right to bring issues to vote, not in consisting with this Constitution, through a valid petition signed by at least fifty (50) adult, resident, tribal members. The Council shall call an election to be conducted by the election committee no later than thirty(30) days after the receipt of the petition. If the Council fails to act on the petition, the issue may be brought before a tribal membership meeting. If the petition calling for the right and procedure by which citizen can propose a law by petition and ensure its submission to the qualified voters is valid, a new petition calling for such a meeting shall be required. Notice shall be posted in at least three (3) public places, at least three(3) weeks in advance. A quorum of such meeting shall be a minimum of twenty-five (25) adult, resident, tribal members.

Section 2. REFERENDUM. The Council by an affirmative vote of at least five (5) of its members, may refer issues to the tribal membership in a tribal election. Such an Election shall be conducted by the election committee within thirty(30) days of such Council decision. An affirmative vote by a majority of the qualified voters at a tribal membership meeting where a quorum is established, or where at least twenty-five(25) adult, resident, tribal members vote during polling hours, shall be required to determine the Tribe's position on the issue submitted to a vote.

Section 3. INITIATIVE AND REFERENDUM DECISIONS. The decision of the voters in both the right and procedure by which citizens can propose a law by petition and ensure its submission to the qualified voters and submission of a proposed public measure or actual statute to a direct popular vote elections shall be binding on the Council and the Tribe and shall remain in full force until amended or rescinded by following close after of the voters or expires by its own terms.

ARTICLE 12-RIGHTS OF MEMBERS

Section 1. ACCESS TO TRIBAL RECORDS. Tribal members shall have the right to review all tribal records, including financial records, during office hours in accordance with procedures established by the Tribal Council, except in child welfare cases, to subject to or engage in legal proceedings,personnel, enrollment records other than lists of tribal member names or council resolutions enrolling members, and other confidential records as defined by tribal ordinance.

Section 2. PROPOSAL OF ORDINANCES. Tribal members have the right to propose ordinances to the Tribal Council. Tribal members have the right to be present and allowed to speak at tribal meetings when ordinances are being considered and/or voted upon.

Section 3. ATTENDING TRIBAL COUNCIL MEETINGS. Tribal members have the right to attend all council meetings, except when the Council is in executive session and when the Council is acting as the Tribal Court.

Section 4. INDIAN CIVIL RIGHTS. The Nightmute Tribal Government shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968, as amended. In summary, Tribal Government shall:

1. Not prohibit the free exercise of speech, press, religion or rights of the people to assemble peacefully or file grievances against the tribal government.

2. Not allow unreasonable search and seizure or issue or issue search warrants without probable cause.

3. Not try anyone for the same offense twice.

4. Not make any person testify against him or herself in a criminal matter.

5. Not take private property for public use without paying the owner the fair market value.

6. Not deny a person the right to a speedy public trial. A speedy public trial is generally assumed to be a trial within ninety (90) days or less. The accused person must be informed of the nature of the crime he or she is accused of, told about a witness against him or her, be allowed to have a witness testify in his or her behalf and be allowed a lawyer at his or her own expense.

7. Not impose excessive bail or fines, nor impose cruel or unusual punishments. Tribal courts may not impose a penalty greater than $5,000 or one year in jail, or both for the one offense.

8. Give all persons equal protection under tribal laws.

9. not pronounce anyone guilty of a crime or civil violation without a fair hearing. The tribal government shall not pass an ordinance or change penalties, after an incident(EX Post Facto).

10 Provide anyone accused of an offense punishable by a jail time the right to a trial by jury of no less than seven (7) persons.

ARTICLE 13-SOVEREIGN IMMUNITY OF THE NIGHTMUTE TRIBE

Nothing in this Constitution shall be considered or interpreted to be a waiver of the sovereign immunity of the Nightmute Tribe,the sovereign immunity of the tribe may only be waived by resolution of the Nightmute Tribal Council, after a referendum in which the waiver is approved by an affirmative vote of at least fifty (50) adult, residents,tribal members. A waiver shall apply only to claims specified in such resolution and permitted by this Constitution and federal law.
However, the tribal Council shall have the authority to waive the sovereign immunity of the Nightmute Tribe without approval in a referendum of Federal or State grants or contracts. Waivers of sovereign immunity shall not be general but must be specific and limited to duration, grantee, transaction, claims,property or funds of the Tribe subject to the waiver, as well as specific to the court having jurisdiction and applicable law.

Waiver of sovereign immunity of the Tribe shall not be considered a general consent to levy any judgment , lien or attachment upon property of the Tribe other than property specifically pledged, assigned or otherwise explicitly subject to levy in the waiver resolution. A waiver which fails to comply with this Article shall be invalid.

ARTICLE 14- SAVING AND SEVERABILITY

Section 1. SAVINGS. Unless inconsistent with this Constitution, all tribal ordinances enacted prior to adoption of the Constitution shall remain in effect.

Section 2. SEVERABILITY. If any provision of this Constitution shall, in the future, be declared invalid by a court or competent jurisdiction, the invalid provision shall be severed and the remaining provision shall continue in full force and effect.

ARTICLE 15- AMENDMENTS

Section 1. AMENDMENTS BY THE TRIBE. This Constitution may be amended by a majority vote of the tribal members when a minimum of twenty (25) adult, resident, tribal members cast an affirmative vote in such election. Notice concerning amendments to this Constitution shall be posted in at least three (3) public places, at least one (1) month in advance to such election.

ADOPTION

The adoption of this Constitution shall require a majority vote in an election in which at least fifty (50) adult, resident, tribal members of Nightmute Tribe cast their ballots. This Constitution shall be effective from the date of tribal membership approval through such election.

CERTIFICATION OF RESULTS OF ELECTION

This Constitution of Nightmute Tribe was submitted to the qualified voters of the Tribe and on November 25, 2000 was duly adopted unanimously, in an election conducted in accordance with Article 8 of this Constitution.

Chairman, Joseph Post

Vice Chairman, Camillus Tulik

Member, David Tulik

Member, Charlie Anthony

Member, Jimmy Anthony

Member, Stanley Anthony

Attested by:

Secretary/Treasurer, Christopher George

NIGHTMUTE TRADITIONAL COUNCIL
P.O. BOX 90021
NIGHTMUTE, ALASKA 99690
PHONE (907) 647-6215 FAX (907) 647 -6112

FAX COVER SHEET

Attention: Tim Deasis

Destination: Juneau, AK - B.I.A

FAX#: (907) 586-7064

Date: 07-23-03

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[ ] Urgent [ ] Please Review [ ] Reply ASAP [ ] Please Comment [ ] For your Info
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Total pages, including cover 11

Comments: Tim, here is the complete Constitution that was Adopted on Oct. 19, 2002 which you have requested. I will not mail you anything of it you can hold the faxed one, but I will mail the Copy To ANC BIA.

TNX

John

RECEIVED
BUREAU OF INDIAN AFFAIRS

JUL 23 2003

TRIBAL GOVERNMENT SERVICES
JUNEAU REGIONAL OFFICE